

MEMORANDUM

Agenda Item No. 6(C)

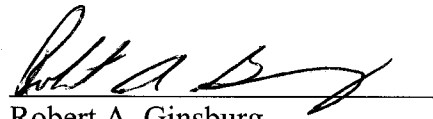
TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: May 11, 2004

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Ordinance amending Section
2-10.4.01; relating to the
CBE-A/E Program

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Natacha Seijas.



Robert A. Ginsburg
County Attorney

RAG/jls



MEMORANDUM

TO: Honorable Chairperson Barbara Carey-Shuler, Ed.D. and Members, Board of County Commissioners **DATE:** June 8, 2004

FROM: George M. Burgess, County Manager  **SUBJECT:** Ordinance amending Section 2-10.4.01; relating to the CBE-A/E Program

The ordinance amending Section 2-10.4.01 relating to the CBE-A/E Program will not have a fiscal impact on Miami-Dade County.

This amendment creates a two-tiered CBE-A/E program for Architectural, Landscape Architectural, Engineering and Surveying and Mapping professional services.

fiscal/03604



MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: June 8, 2004

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 6(C)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6 (C)
6-8-04

ORDINANCE NO. _____

ORDINANCE AMENDING SECTION 2-10.4.01 OF THE
CODE OF MIAMI-DADE COUNTY, FLORIDA TO
PROVIDE FOR TWO-TIERED COMMUNITY
BUSINESS ENTERPRISE (CBE-A/E) PROGRAM FOR
ARCHITECTURAL, LANDSCAPE ARCHITECTURAL,
ENGINEERING, AND SURVEYING AND MAPPING
PROFESSIONAL SERVICES; DELETING LIMITATION
ON AGGREGATE NET WORTH OF CBE-A/E
OWNERS; PROVIDING SEVERABILITY, INCLUSION
IN CODE AND EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 2-10.4.01 of the Code of Miami-Dade County, Florida is
amended as follows:¹

**Sec. 2-10.4.01. Community Business Enterprise Program for
Architectural, Landscape Architectural,
engineering, and Surveying and Mapping
Professional Services.**

* * *
(2) *Definitions.*

* * *

G. *Community Business Enterprise (CBE-A/E)* means a
firm providing architectural, landscape architectural,
engineering, or surveying and mapping professional
services, including a design-build firm, which has an
actual place of business in Miami-Dade County and
whose three (3) year average annual gross revenues do

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double
arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain
unchanged

not exceed two million (\$2,000,000) dollars >>for first tier CBE-A/Es, four million (\$4,000,000) dollars for second tier CBE-A/Es in the case of architectural, engineering or surveying and mapping services, or six million (\$6,000,000) dollars for second tier CBE-A/Es in the case of landscape architectural services<<. A CBE-A/E will graduate out of the Program once it has exceeded these >>second tier CBE-A/E<< size limits based on its three-year average annual gross revenues. As part of the certification process, CBE-A/Es must go through a technical certification process, which will be used to determine which of the technical certification categories the CBE-A/E will be placed in. A firm's eligibility to participate in the CBE-A/E program shall be determined based on the cumulative adjusted gross revenues of the applicant firm in combination with that of all of the firm's affiliates as provided in Appendix A. ~~[[No firm shall be certified as a CBE-A/E where the aggregate net worth of all of its owners is more than seven hundred fifty thousand (\$750,000) dollars.]]~~ Representations as to gross revenues ~~[[and net worth of owners]]~~ shall be subject to audit.

* * *

EE. *Set-aside*. Means reservation for competition solely among >>first tier<< CBE-A/Es of a given prime County agreement for architectural, landscape architectural, engineering or surveying and mapping professional services.

FF. *Subconsultant goal* means a proportion of a prime agreement value stated as a percentage to be subconsulted to >>first and second tier<< CBE-A/Es to perform a commercially useful function.

* * *

(3) *Program Components.*

* * *

B. *Miami-Dade County Community Business Enterprise (CBE-A/E) Program for Architectural, Landscape Architectural, Engineering, and Surveying and Mapping Services:*

1. Agreement Set-Asides: The County Commission, or Public Health Trust may determine it is in its best interest to set-aside a prime County agreement for architectural, landscape architectural, engineering, or surveying and mapping professional services when determined, prior to proposal advertisement, that there are at least three (3) >>first tier<< CBE-A/Es available. On a set-aside agreement, the successful proposer must be a certified >>first tier<< CBE-A/E; one hundred (100) percent of the total estimated value of professional services of the agreement must be performed by either the successful proposer, or the successful proposer and other certified >>first tier<< CBE-A/Es

Transferring to, or substitution of, a non->>first tier<< CBE-A/E through subconsulting or otherwise all or part of the actual work of a set-aside agreement is prohibited unless such transfer receives prior approval from the Department of Business Development as consistent with normal industry practice except as allowed under (commercially useful function) above.

2. Subconsultant goals: The County Commission, or Public Health Trust may establish subconsultant goals to be applied to a particular agreement based on estimates made prior to proposal advertisement of the quality, quantity and type of subconsulting opportunities provided by the agreement, and of the availability of >>first and second tier<< CBE-A/Es to afford effective subconsulting competition therefor. After proposal advertisement, or other formal public notice, the established subconsultant goal may be reduced only with the approval of the County Commission or Public Health Trust.

Proposal documents shall require proposers to submit a Schedule of Participation form, or equivalent, at the time of proposal submission identifying all >>first and second tier<< CBE-A/Es to be utilized to meet the subconsultant goal, the scope of work each will perform, and the percentage of such work. Failure to submit the required Schedule of Participation form, or equivalent, at the time of proposal submission shall render the proposal non-

responsive. A Letter of Intent form shall also be required by proposers, no later than two (2) business days after proposal submission due date confirming the information on the schedule of participation through signed documents from the >>first or second tier<< CBE-A/E involved. Submission of a defective Schedule of Participation and/or Letter of Intent form, or equivalent, shall render the proposal voidable.

Proposal documents shall include documentation demonstrating the basis for the subconsultant goal established in the contract. Any proposer may challenge or protest the goal by submitting to DBD or the Contracting Officer no later than ten (10) business days prior to the scheduled proposal submission date the reasons for such a challenge or protest in writing. Challenges or protests to a CBE-A/E goal by proposers after that time, or based on reasons not provided in writing within the time frame stated above, shall not be considered by the County Commission. A successful prime proposer or joint venture certified as a >>second tier<< CBE-A/E may perform up to 100 percent of a CBE-A/E subconsultant goal with its own forces provided that the Schedule of Participation form, or equivalent, as filed with the proposal submission identifies such prime proposer or joint venture as performing such work.

Proposers who believe that they will fail to meet the specified subconsultant goal due to lack of available >>first and second tier<< CBE-A/Es, in order to remain eligible for award of the agreement, must notify DBD in writing at least fourteen (14) calendar days prior to proposal submitted date, advising DBD of the lack of available >>first and second tier<< CBE-A/Es and providing full documentation of their efforts to obtain the services of >>first and second tier<< CBE-A/Es to meet the goal.

Proposal documents shall provide that:

- (i) Only expenditures to >>first and second tier<< CBE-A/Es for performing a commercially useful function shall be counted toward meeting a specified subconsultant goal;
- (ii) Expenditures to >>first and second tier<< CBE- for

acting essentially as a conduit to transfer funds to a non-CBE-A/E shall not be counted toward meeting a subconsultant goal unless such conduct receives prior approval from the Department of Business Development as consistent with normal industry practice; and

- (iii) Expenditures to >>first and second tier<< CBE-A/E's who subconsult work further to non-CBE-A/E's shall not be counted toward meeting a subconsultant goal unless such subconsulting receives prior approval from the Department of Business Development as consistent with industry practice.
- (iv) Only expenditures to >>first and second tier<< CBE-A/E's made under written subconsultant agreement executed by both the prime proposer and the >>first or second tier<< CBE-A/E shall be counted towards meeting the subconsultant goal.

- 3. Graduation: Upon recertification review, any CBE-A/E that exceeds the >>second tier CBE-A/E<< size limits established by this section shall be immediately graduated from the CBE-A/E program. These firms shall be allowed to complete any currently awarded agreement. However, the graduated firm will not be eligible to receive any new agreements under the CBE-A/E program.

*

*

*

Section 2. If any section, subsection, sentence, clause of this ordinance is held invalid, the remainder of this ordinance shall not be affected thereby.

Section 3. This ordinance does not contain a sunset provision.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," or "article," or other appropriate word.

Section 5. This ordinance shall become effective thirty (30) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board, and shall apply to contracts advertised after such date.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency. RA6

Prepared by: RA

R. A. Cuevas, Jr.

Sponsored by Commissioner Natacha Seijas